

CHAPTER II

POLICIES

Section 1

STANDARDS FOR ACCESS TO **CLASSIFIED** INFORMATION OR
ASSIGNMENT TO SENSITIVE DUTIES2-100 General

Only United States citizens shall be granted a personnel security clearance, assigned to sensitive duties, or granted access to Classified information unless an authority designated in Appendix F has determined that, based on all available information, there are compelling reasons in furtherance of the Department of Defense mission, including, special expertise, to assign an individual who is not a citizen to sensitive duties or grant a Limited Access Authorization to classified information. Non-U.S. citizens, may be employed in the competitive service in sensitive civilian positions only when specifically approved by the Office of Personnel Management, pursuant to E.O. 11935 (reference (k)). Exceptions to these requirements shall be permitted only for compelling national security reasons.

2-101 Clearance and Sensitive Position Standard

The personnel security standard that must be applied to determine whether a person is eligible for access to classified information or assignment to sensitive duties is whether, based on all available information, the person's loyalty, reliability, and trustworthiness are such that entrusting the person with classified information or assigning the person to sensitive duties is clearly consistent with the interests of national security.

2-102 Military Service Standard

The personnel security standard that must be applied in determining whether a person is suitable under national security criteria for appointment, enlistment, induction, or retention in the Armed Forces is that, based on all available information, there is no reasonable basis for doubting the person's loyalty to the Government of the United States.

Section 2

CRITERIA FOR APPLICATION OF SECURITY STANDARDS

2-200 Criteria for Application of Security Standards

The ultimate decision in applying either of the security standards set forth in paragraph 2-101 and 2-102 above must be an overall common sense determination based upon all available facts. The criteria for determining eligibility for a clearance under the security standard shall include, but not be limited to the following:

a. Commission of any act of sabotage, espionage, treason, terrorism, anarchy, sedition, or attempts thereat or preparation therefor, or conspiring with or aiding or abetting another to commit or attempt to commit any such act.

b. Establishing or continuing a sympathetic association with a saboteur, spy, traitor, seditionist, anarchist, terrorist, revolutionist, or with an espionage or other secret agent or similar representative of a foreign nation whose interests may be inimical to the interests of the United States, or with any person who advocates the use of force or violence to overthrow the Government of the United States or to alter the form of Government of the United States by unconstitutional means.

c. Advocacy or use of force or violence to overthrow the Government of the United States or to alter the form of Government of the United States by unconstitutional means.

d. Knowing membership with the specific intent of furthering the aims of, or adherence to and active participation in any foreign or domestic organization, association, movement, group or combination of persons (hereafter referred to as organizations) which unlawfully advocates or practices the commission of acts of force or violence to prevent others from exercising their rights under the Constitution or laws of the U.S. or of any State or which seeks to overthrow the Government of the U.S. or any State or subdivision thereof by unlawful means.

e. Unauthorized disclosure to any person of classified information, or of other information, disclosure of which is prohibited by Statute, Executive Order or Regulation.

f. Performing or attempting to perform one's duties, acceptance and active maintenance of dual citizenship, or other acts conducted in a manner which serve or which could be expected to serve the interests of another government in preference to the interests of the U.S.

g. Disregard of public law, Statutes, Executive Orders or Regulations including violation of security regulations or practices.

h. Criminal or dishonest conduct.

i. Acts of omission or commission that indicate poor judgment, unreliability or untrustworthiness.

j. Any behavior or illness, including any mental condition, which, in the opinion of competent medical authority, may cause a defect in judgment or reliability with due regard to the transient or continuing effect of the illness and the medical findings in such case.

k. Vulnerability to coercion, influence, or pressure that may cause conduct contrary to the national interest. This may be (1) the presence of immediate family members or other persons to whom the applicant is bonded by affection or obligation in a nation (or areas under its domination) whose interests may be inimical to those of the U.S., or (2) any other circumstances that could cause the applicant to be vulnerable.

1. Excessive indebtedness, recurring financial difficulties, or unexplained affluence.

m. Habitual or episodic use of intoxicants to excess.

n. Illegal or improper use, possession, transfer, sale or addiction to any controlled or psychoactive substance, narcotic, cannabis or other dangerous drug.

o. Any knowing and willful falsification, **coverup**, concealment, misrepresentation, or omission of a material fact from any written or oral statement, document, form or other representation or device used by the Department of Defense or any other Federal agency.

p. Failing or refusing to answer. ~~or to authorize~~ others to answer questions or provide information required by a congressional committee, court, or agency in the course of an official inquiry whenever such answers or information concern relevant and material matters pertinent to an evaluation of the individual's trustworthiness, reliability, and judgment.

q. Acts of sexual misconduct or perversion indicative of moral turpitude, poor judgment, or lack of regard for the laws of society.

Section 3

TYPES AND SCOPE OF PERSONNEL SECURITY INVESTIGATIONS

2-300 General

The types of personnel security investigations-authorized below vary in scope of investigative effort required to meet the purpose of the particular investigation. No other types are authorized. The scope of a PSI may be neither raised nor lowered without the approval of the Deputy Under Secretary of Defense for Policy.

2-301 National Agency Check

Essentially, a NAC is a records check of designated agencies of the Federal Government that maintain record systems containing information relevant to making a personnel security determination. An **ENTNAC** is a NAC (scope as outlined in paragraph 1, Appendix B) conducted on inductees and first-term **enlistees**, but lacking a technical fingerprint search. A NAC is also an integral part of each BI, SBI, and Periodic Reinvestigation (PR). Chapter III prescribes when a NAC is required.

2-302 National Agency Check plus Written Inquiries

The Office of Personnel Management (OPM) conducts a NAC plus Written Inquiries (NACIs) on civilian employees for all departments and agencies of the Federal Government, pursuant to E.O. 10450 (reference (g)). NACIs are considered to meet the investigative requirements of this Regulation for a nonsensitive or noncritical sensitive position and/or up to a SECRET clearance and, in addition to the NAC, include coverage of law enforcement agencies, former employers and supervisors, references, and schools covering the last 5 years.

2-303 DoD National Agency Check Plus Written Inquiries

DIS will conduct a DNACI, consisting of the scope contained in paragraph 2, Appendix B, for DoD military and contractor personnel for access to SECRET information. Chapter 111 prescribes when a DNACI is required.

2-304 Background Investigation

The BI is the principal type of investigation conducted when an individual requires TOP SECRET clearance or is to be assigned to a critical sensitive position. The BI normally covers a 5-year period and consists of a subject interview, NAC, LACs, credit checks, developed character references (3), employment records checks, employment references (3), and select scoping as required to resolve unfavorable or questionable information. (See paragraph 3, Appendix B). Chapter III prescribes when a BI is required.

2-305 Special Background Investigation

a. An SBI is essentially a BI providing additional coverage both in period of time as well as sources of information, scoped in accordance with the provisions of DCID 1/14 (reference (1)) but without the personal interview. While the kind of coverage provided for by the SBI determines eligibility for access to SCI, DoD has adopted this coverage for certain other Special Access programs. Chapter III prescribes when an SBI is required.

b. The OPM, FBI, Central Intelligence Agency (CIA), Secret Service, and the Department of State "conduct specially scoped BIs under the provisions of DCID 1/14. Any investigation conducted by one of the above-cited agencies under DCID 1/14 standards is considered to meet the SBI investigative requirements of this Regulation.

c. The detailed scope of an SBI is set forth in paragraph 4, Appendix B.

2-306 Special Investigative Inquiry

a. A Special Investigative Inquiry is a personnel security investigation conducted to prove or disprove allegations relating to the criteria outlined in paragraph 2-200 of this Regulation, except current criminal activities (see paragraph 2-402d), that have arisen concerning an individual upon whom a personnel security determination has been previously made and who, at the time of the allegation, holds a security clearance or otherwise occupies a position that requires a trustworthiness determination.

b. Special Investigative Inquiries are scoped as necessary to address the specific matters requiring resolution in the case concerned and generally consist of record checks and/or interviews with potentially knowledgeable persons. An SII may include an interview with the subject of the investigation when necessary to resolve conflicting information and/or to provide an opportunity to refute or mitigate adverse information.

c. In those cases when there is a disagreement between Defense Investigative Service (DIS) and the requester as to the appropriate scope of the investigation, the matter may be referred to the Deputy Under Secretary of Defense for Policy for resolution.

2-307 Periodic Reinvestigation

As referred to in paragraph 3-700 and other national directives, certain categories of duties, clearance, and access require the conduct of a PR every five years according to the scope outlined in paragraph 5, Appendix B. The PR scope applies to military, civilian, contractor, and foreign national personnel.

2-308 Personal Interview

Investigative experience over the years has demonstrated that, given normal circumstances, the subject of a personnel security investigation is the best source of accurate and relevant information concerning the matters under consideration. Further, restrictions imposed by the Privacy Act of 1974 (reference (m)) dictate that Federal investigative agencies collect information to the greatest extent practicable directly from the subject when the information may result in adverse determinations about an individual's rights, benefits, and privileges under Federal programs.. Accordingly, personal interviews are an integral part of the DoD personnel security program and shall be conducted in accordance with the requirements set forth in the following paragraphs of this section.

a. BI/PR. A personal interview shall be conducted by a trained DIS agent as part of each BI and PR.

b. Resolving Adverse Information. A personal interview of the subject shall be conducted by a DIS agent (or, when authorized, by investigative personnel of other DoD investigative organizations designated in this Regulation to conduct personnel security investigations), when necessary, as part of each Special Investigative Inquiry, as well as during the course of initial or expanded investigations, to resolve or clarify any information which may impugn the subject's moral character, threaten the subject's future federal employment, raise the question of subject's security cleanability, or be otherwise stigmatizing.

c. Hostage Situation. A personal interview shall be conducted by a DIS agent (or, when authorized, by investigative personnel of other DoD investigative organizations designated in this Regulation to conduct personnel security investigations) in those instances in which an individual has immediate family members or other persons bound by ties of affection or obligation who reside in a nation whose interests are inimical to the interests of the United States. (See paragraph 2-403.)

d. Applicants/Potential Nominees for DoD Military or Civilian Positions Requiring Access to SCI or Other Positions Requiring an SBI. A personal interview of the individual concerned shall be conducted, to the extent feasible, as part of the selection process for applicants/potential nominees for positions requiring access to SCI or completion of an SBI. The interview shall be conducted by a designee of the Component to which the applicant or potential nominee is assigned. Clerical personnel are not authorized to conduct these interviews. Such interviews shall be conducted utilizing resources in the order of priority indicated below:

(1) Existing personnel security screening systems (e.g., Air Force Assessment Screening Program, Naval Security Group Personnel Security Interview Program, U.S. Army Personnel Security Screening Program); or

(2) Commander of the nominating organization or such official as he or she has designated in writing (e.g., Deputy Commander, Executive Officer, Security Officer, Security Manager, S-2, Counterintelligence Specialist, Personnel Security Specialist, or Personnel Officer); or

(3) Agents of investigative agencies in direct support of the Component concerned.

e. Administrative Procedures

(1) The personal interview required by paragraph d., above, shall be conducted in accordance with Appendix G.

(2) For those investigations requested subsequent to the personal interview requirements of paragraph d., above, the following procedures apply:

(a) The DD Form 1879 (Request for Personnel Security Investigation) shall be annotated under Item 20 (Remarks) with the statement "Personal-Interview Conducted by (cite the duty assignment of the designated official (e.g., Commander, Security Officer, Personnel Security Specialist, etc.))" in all cases in which an SBI is subsequently requested.

(b) Unfavorable information developed through the personal interview required by paragraph d., above, will be detailed in a written report attached to the DD Form 1879 to include full identification of the interviewer. Failure to provide such information may result in conduct of an incomplete investigation by DIS.

(c) Whenever it is determined that it is not feasible to conduct the personal interview required by paragraph d. above, prior to requesting the SBI, the DD Form 1879 shall be annotated under Item 20 citing the reason for not conducting the interview.

2-309 Expanded Investigation

If adverse or questionable information relevant to a security determination is developed during the conduct of a personnel security investigation, regardless of type, the investigation shall be expanded, consistent with the restrictions in paragraph 2-504, to the extent necessary to substantiate or disprove the adverse or questionable information.

Section 4

AUTHORIZED PERSONNEL SECURITY INVESTIGATIVE AGENCIES

2-400 General

The DIS provides a single centrally directed personnel security investigative service to conduct personnel security investigations within the 50 states, District of Columbia, and Commonwealth of Puerto Rico for DoD Components, except as provided for in DoD Directive 5100.23 (reference (n)). DIS will request the Military Departments or other appropriate Federal Agencies to accomplish DoD investigative requirements in other geographic areas beyond their jurisdiction. No other DoD Component shall conduct personnel security investigations unless specifically authorized by the Deputy Under Secretary of Defense for Policy. In certain instances provided for below, the DIS shall refer an investigation to other investigative agencies.

2-401 Subversive Affiliations

a. General. In the context of DoD investigative policy, subversion refers only to such conduct as is forbidden by the laws of the United States. Specifically, this is limited to information concerning the activities of individuals or groups that involve or will involve the violation of Federal law, for the purpose of:

(1) Overthrowing the Government of the United States or the government of a state;

(2) Substantially impairing for the purpose of influencing U.S. Government policies or decisions:

(a) The functions of the Government of the United States,
or

(b) The functions of the government of a state;

(3) Depriving persons of their civil rights under the Constitution or laws of the United States.

b. Military Department/FBI Jurisdiction. Allegations of activities covered by criteria a. through f. of paragraph 2-200 of this Regulation are in the exclusive investigative domain of either the counterintelligence agencies of the Military Departments or the FBI, depending on the circumstances of the case and the provisions of the Agreement Governing the Conduct of Defense Department Counterintelligence Activities in Conjunction with the FBI (reference (o)). Whenever allegations of this nature are developed, whether before or after a security clearance has been issued or during the course of a personnel security investigation conducted by DIS, they shall be referred immediately to either the FBI or to a military department counterintelligence agency, as appropriate.

c. DIS Jurisdiction. Allegations of activities limited to those set forth in criterion g. through q. of paragraph 2-200 of this Regulation shall be investigated by DIS.

2-402 Suitability Information

a. General. Most derogatory information developed through **personnel** security investigations of DoD military ~~or~~ civilian personnel is so-called suitability information, that is, information pertaining to activities or situations covered by criteria g. through q. of paragraph 2-200 of this Regulation. Almost all unfavorable personnel security determinations made by DoD authorities are based on derogatory suitability information, although such information is often used as a basis for unfavorable administrative actions not of a security nature, such as action under the Uniform Code of **Military** Justice or removal from Federal employment under OPM regulations.

b. Pre-clearance Investigation. Derogatory suitability information, except that covered in d. below, developed during the course of a personnel security investigation, prior to the issuance of an individual's personnel security clearance, shall be investigated by DIS to the extent necessary to confirm or refute its applicability to criteria g. through q. of paragraph 2-200.

c. Postadjudication Investigation. Derogatory suitability allegations, except those covered by d. below, arising subsequent to clearance requiring investigation to resolve and to determine the individual's eligibility for continued access to classified information, reinstatement of clearance/access, or retention in a sensitive position shall be referred to DIS to conduct a Special Inves.tigative Inquiry. Reinvestigation of individuals for adjudicative reconsideration due to the passage of time or evidence of favorable behavior shall also be referred to DIS for investigation. In such cases, completion of the appropriate statement of personal history by the individual constitutes consent to be investigated. Individual consent or completion of a statement of personal history is not required when paragraph 3-701 applies. Postadjudication investigation of allegations of a suitability nature required to support other types of unfavorable personnel security determinations or disciplinary procedures independent of a personnel security determination shall be handled in accordance with applicable Component administrative regulations. These latter categories of allegations lie outside the DoD personnel security program and are not a proper investigative function for departmental counterintelligence organizations, Component personnel security authorities, or DIS.

d. Allegations of Criminal Activity. Any allegations of conduct of a nature indicating possible criminal conduct, including any arising during the course of a personnel security investigation, shall be referred to the appropriate DoD, ☐ilitary department or civilian criminal investigative agency. Military department investigative agencies have primary investigative jurisdiction in cases where there is probable cause to believe that the alleged conduct will be the basis for prosecution under the Uniform Code of Military Justice.

2-403 Hostage Situations

a. General. A hostage situation exists **when** a member of an individual's immediate family or such other person to whom the individual is bound by obligation or affection resides in a country whose interests are inimical to the interests of the United States. The rationale underlying this category of investigation is based on the possibility that an individual in such a situation might be **coerced**, influenced, or pressured **to** act contrary to the best interests of national security.

b. DIS Jurisdiction. In the absence of evidence of any coercion, influence or pressure, hostage investigations are exclusively a personnel security matter, rather than counterintelligence, and all such investigations shall be conducted by DIS.

c. Military Department and/or FBI Jurisdiction. Should indications be developed that hostile intelligence is taking any action specifically directed against the individual concerned--or should there exist any other evidence that the individual is actually being coerced, influenced, or pressured by an element inimical to the interests of national security--then the case becomes a counterintelligence matter (outside of investigative jurisdiction of DIS) to be referred to the appropriate military department or the FBI for investigation.

2-404 Overseas Personnel Security Investigations

Personnel security investigations requiring investigation overseas shall be conducted under the direction and control of DIS by the appropriate military department investigative organization. Only postadjudication investigations involving an overseas subject may be referred by the requester directly to the military department investigative organization having investigative responsibility in the overseas area concerned (see Appendix J) with a copy of the investigative request sent to DIS. In such cases, the military department investigative agency will complete the investigation, forward the completed report of investigation directly to DIS, with a copy to the requester.

Section 5

LIMITATIONS AND RESTRICTIONS

2-500 Authorized Requesters and Personnel Security Determination Authorities

Personnel security investigations may be requested and personnel security clearances (including Special Access authorizations as indicated) granted only by those authorities designated in paragraph 5-101 and Appendix F.

2-501 Limit Investigations and Access

The number of persons cleared for access to classified information shall be kept to a minimum, consistent with the requirements of operations. Special attention shall be given to eliminating unnecessary clearances and requests for personnel security investigations.'

2-502 Collection of Investigative Data

To the greatest extent practicable, personal information relevant to security determinations shall be obtained directly from the subject of a personnel security investigation. Such additional information required to make the necessary personnel security determination shall be obtained as appropriate from knowledgeable personal sources, particularly the subject's peers, and through checks of relevant records including school, employment, credit, medical, and law enforcement records.

2-503 Privacy Act Notification

Whenever personal information is solicited from an individual preparatory to the initiation of a personnel security investigation, the individual must be informed of (1) the authority (statute or Executive order that authorized solicitation); (2) the principal purpose or purposes for which the information is to be used; (3) the routine uses to be made of the information; (4) whether furnishing such information is mandatory or voluntary; (5) the effect on the individual, if any, of not providing the information and (6) that subsequent use of the data may be employed as part of an aperiodic, random process to screen and evaluate continued eligibility for access to classified information.

2-504 Restrictions on Investigators

Investigation shall be carried out insofar as possible to collect only as much information as is relevant and necessary for a proper personnel security determination. Questions concerning personal and domestic affairs, national origin, financial matters, and the status of physical health thus should be avoided unless the question is relevant to the criteria of paragraph 2-200 of this Regulation. Similarly, the probing of a person's thoughts or beliefs and questions about conduct that have no personnel security implications are unwarranted. When conducting investigations under the provisions of this Regulation, investigators shall:

- a. Investigate only cases or persons assigned within their official duties.
- b. Interview sources only where the interview can take place in reasonably private surroundings.
- c. Always present credentials and inform sources of the reasons for the investigation. Inform sources of the subject's accessibility to the information to be provided and to the identity of the sources providing the information. Restrictions on investigators relating to Privacy Act advisements to subjects of personnel security investigations are outlined in paragraph 2-503.
- d. Furnish only necessary identity data to a source, and refrain from asking questions in such a manner as to indicate that the investigator is in possession of derogatory information concerning the subject of the investigation.
- e. Refrain from using, under any circumstances, covert or surreptitious investigative methods, devices, or techniques including mail covers, physical or photographic surveillance, voice analyzers, inspection of trash, paid informants, wiretap, or eavesdropping devices.

f. Refrain from accepting any case in which the investigator knows of circumstances that might adversely affect his fairness, impartiality, or objectivity.

g. Refrain, under any circumstances, from conducting physical searches of the subject or his property.

h. Refrain from attempting to evaluate material contained in medical files. Medical files shall be evaluated for personnel security program purposes only by such personnel as are designated by DoD medical authorities. However, review and collection of medical record information may be accomplished by authorized investigative personnel.

2-505 Polygraph Restrictions

The polygraph may be used as a personnel security screening measure only in those limited instances authorized by the Secretary of Defense in DoD Directive 5210.48, (reference (p)).